Examiner
1-30-03
13/Appeal Brief

BOARD OF PATENT APPEALS AND INTERFERENCES

APPLICANT:	CATHERINE SHOEMAKER	§	GROUP ART UNIT: 3722
SERIAL NO.:	09/853,568	§	EXAMINER: Monica Smith Carter
FILED:	May 11, 2001	§	
FOR:	Method and Apparatus for making Medicine Container	§	

APPEAL BRIEF UNDER 37 C.F.R. 1.192

Assistant Commissioner for Patents
ATTN: APPEAL BRIEF
Washington, D.C. 20231

Att'y. Docket No. 1960-00100
Date: January 24, 2003

Sir:

Pursuant to a Notice of Appeal filed November 26, 2002, this paper is submitted as an appeal from a final rejection of the claims, along with the requisite fees and a petition for extension of time.

I. REAL PARTY IN INTEREST

The real party in interest is Catherine Shoemaker.

II. RELATED APPEALS AND INTERFERENCES

No other appeals or interferences are known to Applicant or Applicant's legal representative that will directly affect or be directly affected by or have a bearing on the Board's decision in an appeal on this case.

III. STATUS OF CLAIMS

Originally filed claims:	1-12.
Canceled claims:	3 and 12.
Added claims:	13-21.
Presently pending claims:	1, 2, 4-11, and 13-21.
Allowed claims:	None.
Rejected claims:	1, 2, 4-11, and 13-21.
Claims objected to:	None.
Claims appealed:	1, 2, 4-11, and 13-21

IV. STATUS OF AMENDMENTS

No amendments are pending.

V. SUMMARY OF INVENTION

The comments below apply only to those claims that specifically recite the described features. Not all of the comments below apply to every appealed claim.

Many different containers are known to be in existence for the storage and transportation of medicines, whether liquid, powder, or solid form. A popular example of a medicine container, as widely deployed throughout the pharmaceutical industry predominately for use with solid medication (i.e. tablets, capsules, and pills), generally takes the shape of a cylinder with one open end and a circular shaped cap removably engaged thereupon. Caps for medicine bottles of this type can be fastened in a variety of ways, and be of several types of manufacture.

One issue to the elderly and vision impaired of great concern is the issue of medicine container labeling. In the case of a medicine or pill bottle, typically a label is affixed to the outer, cylindrical portion of the bottle to thoroughly describe the contents, dosage, and any special

precautions for the content's use. This label usually includes pertinent information such as the name of the medicine, the prescribing doctor's name and phone number, the dispensing pharmacy's phone number, the prescribed dosage amount and interval, and special restrictions.

Unfortunately, the label is often too small or too cryptic for elderly or vision impaired patients to comprehend properly. Text located on the label is often small and usually includes medical terms or scientific names of medication that the average patient does not easily understand. The matter of simply enlarging the text of the label is not always a possible solution, as space on the medicine bottle is finite. One solution to this problem has been to magnify the labels using an external source.

Because a majority of the information on the label is required by law, it is unlikely that any of the information may be removed to allow for the enlargement of any remaining text or labels. Elderly and vision impaired patients need a system and method of identifying their medications accurately, easily, and quickly. A system capable of accomplishing these tasks in an improved amount of time and with a high degree of certainty is desirable.

To add to the confusion, these medications have long technical names that are hard to read – much less pronounce. There are so many medicines that a lot of them sound alike. For example, brand names can be Atarax for itching, Ambien for sleep, or Prilosec for stomach problems. The generics for these medications sound complicated. For example, hydroxizine for itching, prmethazine for nausea, cimetidine for the stomach, phenazopyridine for the bladder, and chlordiazpx for the colon. The list is overwhelming for these technical medicines. If one has poor eyesight, cannot read, or does not have a very good memory, it makes taking medication difficult and dangerous. There is a chance of taking the wrong medication.

One embodiment of the present invention helps alleviate these concerns by placing graphical icons on the outside of the medicine containers, so that when the patients look at these containers they will know why the medication has been prescribed. For instance, a picture of a knee with an arrow pointing to the knee informs the patient that the medication is for the pain in their knee. The very same pain medication might be given to another patient for pain in their elbow. In such case, the icon would comprise a picture of an elbow with an arrow pointing to the elbow. Again, looking down at the pictures will inform patients what the medication treats, without them having to remember long, technical names. Applicant's invention thus allows patients or caregivers themselves to choose which labels will help them remember the medicines. These icon labels can be made for any health problem concerning the human anatomy. These icons will not only help the patient, but also they will help family and other caregivers know why the medicine has been prescribed.

VI. ISSUES

Are claims 1, 2, and 4-6 properly rejected under 35 U.S.C. § 112, ¶ 2, as being indefinite for failing to particularly point out and distinctly claim the subject matter that Applicant regards as her invention?

Are claims 1, 2, and 17-19 properly rejected under 35 U.S.C. § 102(b) as being anticipated by *Mayfield* (U.S. Patent No. 5,261,702)?

Are claims 4-16, 20, and 21 properly rejected under 35 U.S.C. § 103(a) as being obvious in view of *Mayfield* (U.S. Patent No. 5,261,702)?

VII. GROUPING OF CLAIMS

With respect to the § 112, ¶2, rejection, claims 1, 2, and 4-6 stand or fall together. With respect to the §102(b) rejection, claims 1, 17, and 19 stand or fall alone. With respect to the

§103(a) rejection: claims 7, 11, 15, and 21 stand or fall alone; claims 4, 14, and 20 stand or fall together; claims 5, 8, and 16 stand or fall together; and claims 6, 9, and 13 stand or fall together.

VIII. ARGUMENT

A. Rejection Under 35 U.S.C. § 112, ¶ 2

The Examiner rejects claims 1-6 under 35 U.S.C. § 112, ¶ 2, because the Examiner believes that the claim does not particularly point out and distinctly claim the subject matter that Applicant regards as her invention. More particularly, the Examiner believes that an inconsistency exists between the language in the preamble of claim 1 and portions of the body of that claim. The Examiner rejects claims 2 and 4-6 because they depend from claim 1.

Under 35 U.S.C. § 112, ¶ 2, a claim is definite if it particularly points out and distinctly defines the metes and bounds of the subject matter that will be protected by the patent grant. MPEP, § 2171. This requirement is an objective one because it is not dependent on the views of applicant or any particular individual, but is evaluated in the context of whether the claim is definite, i.e., whether the scope of the claim is clear to a hypothetical person possessing the ordinary level of skill in the pertinent art. MPEP § 2171. Accordingly, the legal standard for definiteness is whether a claim reasonably apprises those of skill in the art of its scope. *In Re: Warmerdam*, 35 F.3d 1354, 1361 (Fed. Cir. 1994). Applicant's claim 1 meets this requirement.

Claim 1 recites a receptacle for medicine, comprising: a housing having an open end and an external surface, said housing configured to retain dosages of the medicine; a cover to be removably secured to said open end, said cover separating the medicine held within from an outside environment; and a descriptive iconic label capable of identifying the medicine without reference to another source. According to the Examiner, Applicant is required to clarify what subject matter the claim is intended to be drawn to, i.e., either the sub-combination of an iconic

label alone or the combination of a housing, a cover, and an iconic label. Applicant has clearly done so, as claim 1 unquestionably recites the combination of a housing, a cover, and a label. However, the Examiner wants more.

Specifically, the Examiner argues that the "[w]hile it is inherently known that a receptacle would have a housing and a cover, it can not be concluded that the receptacle would have a housing and a cover." July 2, 2002 Office Action, p. 5. This simply is not the standard for § 112, ¶ 2. Many claims that are written contain elements that may not be inherently known to exist in the structure described in the preamble. Applicant claims a receptacle for medicine that has, *inter alia*, a label. This claim reasonably apprises one of ordinary skill in the art of its scope, and thus is definite. Consequently, Applicant respectfully suggests that the Examiner's § 112, ¶ 2, rejection of claim 1 (and claims 5-6 which depend therefrom) is improper and must be overturned.

B. REJECTION OF CLAIMS 1, 2, AND 17-19 UNDER § 102

The Examiner rejects 1, 2, 17-19 § 102(b) as being anticipated by *Mayfield*. Specifically, the Examiner argues that *Mayfield* discloses the claimed invention, including a housing inherently having an open end and an external surface, the housing being configured to retain dosages of medicine; a cover removably secured to the open end which separates the medicine held within from the outside environment; and a descriptive iconic label (22) disposed on the cover to graphically describe the medicine held therein. With regard to the alleged descriptive iconic label (22) limitation, the Examiner cites to Figures 4 and 5, as well as column 7, lines 39-41 of *Mayfield*.

Mayfield teaches a daily medication management system. This system comprises a chart 10 which includes: names of medicines to be taken by a patient which are marked on the chart 10, coded symbols 14 marked or disposed on the chart which correspond to the medicines (marked on the chart) to be taken by the patient; times of the day (marked, printed, or otherwise disposed on

the chart) for the medicines to be taken by the patient; and medication marking elements 18 disposed on the chart, the medication marking elements 18 corresponding to the coded symbols 14 and positioned on the chart 10 in such a manner to indicate the time of the day at which the medicines are to be taken by the patient. *Mayfield*, col. 2, ll. 12-24.

This system also comprises coded symbols 14 that are preferably positioned adjacent the names of medicines marked on chart 10. See *Id.*, Figure 1. Coded symbols 14 comprise distinctive varying shapes, such as circles, square, triangles, diamonds, crosses, rectangles, stars, and the like, for designating corresponding various medicines to be taken by the patient. *Id.* at col. 2, ll. 27-31. Each medication marking element 18 is preferably substantially identical in shape to its corresponding coded symbol 14 for designating each particular medicine to be taken by the patient. *Id.* at col. 2, ll. 31-34.

The system also comprises container markers 22, as shown in Figures 4-7 of *Mayfield.* Container markers 22 correspond identically in shape and color to the medication marking elements 18 and symbols 14 on chart 10 to denote particular medications 12. *Id.*, col. 7, ll. 32-36.

The foregoing shows that *Mayfield* consists of many components, including a chart 10, coded symbols 14, and container markers 22. According to the Examiner, the container markers 22 correspond to descriptive iconic label capable of claim 1, the descriptive, non-textual icon of claim 17, and the label having a picture of claim 19.

To be unpatentable under § 102, a single prior art reference must disclose each and every element of the applicant's claim. *Kegel Co., Inc. v. AMF Bowling, Inc.*, 127 F.3d 1420, 1429 (Fed. Cir. 1997). However, contrary to the Examiner's assertion, at least one element of claims 1, 17, and 19 markedly differs from the container markers 22 of *Mayfield.*

Specifically, claim 1 recites a descriptive iconic label is capable of identifying the medicine *without reference to another source*. This unquestionably is not the case with *Mayfield*'s container markers 22, which are made for the express purpose of referring to another source, namely chart 10. This is evident from the fact that the container markers 22 "correspond identically in shape and color to the medication marking elements 18 and symbols 14 on chart 10 to denote particular medications 12." It is only after the patient compares container marker 22 to symbol 14 on chart 10 that the patient knows what medicine is contained in the bottle. Therefore, claim 1 is novel and is not anticipated by *Mayfield*. Consequently, Applicant respectfully requests that the Examiner's § 102 rejection of claim 1 (and corresponding dependent claims 2-6) is improper and must be withdrawn.

Turning to Applicant's claim 17, a descriptive, non-textual icon that graphically describes the medicine in the container is claimed. The descriptive nature of the icon allows a patient to pick up a bottle of medicine, review the icon, and know if that is the correct medicine to be taken. On the other hand, *Mayfield*'s container markers 22 are not descriptive and do not allow the patient to know, by looking only at the label on the bottle, whether that is the correct medicine or not. Again, it is only after the patient compares container marker 22 to symbol 14 on chart 10 that the patient knows what medicine is contained in the bottle. Therefore, claim 17 is novel and is not anticipated by *Mayfield*. Consequently, Applicant respectfully requests that the Examiner's § 102 rejection of claim 17 (and corresponding dependent claim 18) is improper and must be withdrawn.

Turning to Applicant's claim 19, a label having a picture that alone identifies the medicine is recited. There is no credible argument that *Mayfield* discloses a picture that alone identifies the medicine. In fact, *Mayfield* teaches just the opposite, as the symbols 14, container markers 22, and medicine marking elements 18 each comprise a shape, such as circles, square, triangles, diamonds,

crosses, rectangles, stars, and the like, for designating corresponding various medicines to be taken by the patient. Therefore, claim 19 is novel and is not anticipated by *Mayfield*. Consequently, Applicant respectfully requests that the Examiner's § 102 rejection of claim 19 is improper and must be withdrawn.

C. REJECTION OF CLAIMS 4-11 UNDER § 103(A)

Examiner rejects claims 4-16, and 20-21 under § 103(a) as being unpatentable over *Mayfield*.

Regarding claims 7-10, the Examiner argues that *Mayfield* discloses the method of applying the label to the exterior of the receptacle. In particular, the Examiner argues that *Mayfield* discloses the method of applying the label (22) to the exterior of the receptacle, citing column 7, lines 36-38 of *Mayfield*. Regarding claim 11, the Examiner argues that the label has first and second sides, the first side having an adhering surface and the second side having an external printable media. In particular, the Examiner argues that the label (22) has first and second sides, the first side having an adhering surface and the second side having an external printable media (22). As explained below, Applicant respectfully suggests that the Examiner's rejection is improper and that the Examiner's rejection must be overturned.

The Examiner acknowledges that *Mayfield* does not disclose the specific arrangement and/or content of indicia set forth in claims 4-9, 11-16, 20, and 21. However, the Examiner argues that it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide any type of graphic representation of a cover because it would only depend on the intended use of the assembly and the desire information to be displayed. Finally, the Examiner cites *In Re Gulack*, 217 U.S.P.Q. 401 (Fed. Cir. 1983) in support of the rejection. As explained below, Applicant respectfully suggests that the Examiner's § 103 rejection be overturned.

1. Claims 4-16, 20, and 21 Are Not Obvious In View of *MAYFIELD*

Claims 4-16, 20, and 21 recite descriptive icons or labels comprising pictures or other graphic representations that convey to the patient or their caregiver the medicine that is housed in the receptacle. Specifically, the claims recite: (1) a label having a descriptive icon or graphic (claim 7); (2) a label or graphic depicting why the medicine is being used (claims 4, 14, and 20); (3) a label or graphic depicting the results of the consumption of the medicine (claims 5, 8, and 16); (4) a label or graphic depicting the symptoms for which the medicine is designed (claims 6, 9, and 13); (5) a graphic conveying the type of medicine; (6) a label or graphic depicting the ailment treated (claim 15); and/or (7) a label or graphic depicting the body part for which the medicine is being used (claim 21). In fact, the Examiner recognizes and admits that *Mayfield* does not disclose such labels or graphics. July 2, 2002 Office Action, p. 4. However, the Examiner argues that such labels are obvious in view of *Mayfield* because it would be obvious to provide any type of graphic representation on the cover. Applicant respectfully disagrees.

As explained above, *Mayfield* discloses container markers 22 comprising generic, non-descriptive geometric shapes that perform a different function than Applicant's label. Specifically, *Mayfield* discloses container markers 22 having varying generic geometric shapes that correspond to coded symbols 14 on chart 10 having the geometric shapes. It is only through use of chart 10 coupled with geometric shape on the container markers 22 that one knows what medicine is contained in the receptacle. Perhaps over time, one might associated a shape with a particular medicine. However, Applicant's invention performs a new function by having a descriptive graphic or pictorial representation *that identifies the medicine without reference to another source.*

For example, claim 7 recites a label or graphic having a descriptive icon, claims 4, 14, and 20 recite a label or graphic depicting why the medicine is being used, claims 5, 8, and 16 recite a label or graphic depicting the results of the consumption of the medicine, claims 6, 9, 10, and 13 recite a label or graphic depicting the symptoms for which the medicine is designed, claim 11 recites a graphic conveying the type of medicine, claim 15 recites a label depicting the ailment treated, and claim 21 recites a label depicting the body part for which the medicine is being used. *Mayfield* offers no suggestion that the label itself function to provide information recited in the foregoing claims. In fact, *Mayfield* teaches and suggests nothing more than a multi-part medication management system. In contrast, in Applicant's invention there is no need to refer to or read an external chart or to memorize the association between a particular geometric shape and a medicine. Rather, the labels or graphics recited in claims 4-16, 20, and 21 immediately convey to the user what type of medicine is in the container. Therefore, Applicant respectfully suggests that the claims are not obvious in view of *Mayfield*. Accordingly, Applicant respectfully suggests that the Examiner's rejection is improper and must be overturned.

2. *In Re Gulack* Does Not Support the Examiner's § 103(a) Rejection

In support the § 103(a) rejection, the Examiner cites *In Re Gulack*, 217 U.S.P.Q. 401 (Fed. Cir. 1983), for the proposition that mere support by the substrate for the printed matter is not the kind of functional relationship necessary for patentability. (July 2, 2002 Office Action, pp. 4-5.) Applicant respectfully suggests that *Gulack* does not require rejection of Applicant's claims. Importantly, *Gulack* establishes that "[d]ifferences between an invention and the prior art cited against it cannot be ignored merely because those differences reside in the content of the printed matter." *Id.* at 403. The Federal Circuit has more recently emphasized this point by concluding

that "[t]he PTO may not disregard claim limitations comprised of printed matter." *In Re* Lowery, 32 F.3d 1579, 1583 (Fed. Cir. 1994).

Moreover, *Gulack* establishes that all of the limitations of the claims, including the printed matter limitations, should be considered in determining whether the invention would have been obvious. *Id.* at n.8. As the *Gulack* court noted, the "CCPA, notably leery of reiterating this point, clearly stated that printed matter may well constitute structural limitations upon which patentability can be predicated." *Id.* Based on these principles, the Federal Circuit set forth the following test:

> What is required is the existence of *differences* between the appealed claims and the prior are sufficient to establish patentability. The bare presence or absence of a specific functional relationship, without further analysis, is not dispositive of obviousness. Rather, the critical question is whether there exists any new and unobvious functional relationship between the printed matter and the substrate.

Id. at 404.

As explained above, a new and unobvious functional relationship exists in Applicant's claims. Applicant's invention performs a new function by having a descriptive graphic representation that identifies the medicine without reference to another service. There is no need to refer to or read an external chart, or to memorize the association between a particular geometric shape and a medicine. Rather, the descriptive graphic representation itself immediately conveys to the patient or caregiver what medicine is in the container. Accordingly, *Gulack* supports a finding that Applicant's invention is patentable over *Mayfield*. Therefore, Applicant respectfully suggests that the Examiner's reliance on *Gulack* is improper.

Notwithstanding the foregoing, the Examiner argues that, "[t]he indicia on the label, as claimed, does not functionally alter the relationship of the label and the indicia thereon." July 2, 2002 Office Action, p. 6. Although the Examiner argues unpatentability in terms of a "functional relationship," it appears that the Examiner is rejecting the claims based on a "structural

relationship." Under the Examiner's standard, a recitation of the intended use of the invention "*must result in a structural difference* between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art." *Id.* (emphasis added). However, the Examiner's structural difference argument has specifically been considered and rejected by the courts.

For example, in *In Re Miller*, 164 U.S.P.Q. 46 (CCPA 1969), the applicant claimed a device that was capable of measuring out multiple or fractional cooking recipes. The claimed invention comprised a receptacle, indicia on the receptacle that measured the quantity of ingredient placed in the receptacle, and a legend that informed the user the multiple or fractional amount of the recipe being made, i.e., "1/3 recipe." The examiner rejected the claims because, in the examiner's opinion, the claims defined over the "ordinary measuring vessel only by the addition of unpatentable printed matter." *Id.* at 48. In *Miller*, the prior art and the applied-for claims had the same substrate, namely measuring devices such as measuring cups or spoons. Additionally, in the prior art as well as in the applied-for claims, the printed matter was placed on the measuring devices. Accordingly, the patentable difference between the prior art and the applied-for claims *was the content of the printed matter.* The CCPA recognized this when it overturned the examiner's rejection and allowed the applied-for claims:

> It seems to us that what is significant here is not structural but *functional* relation . . . .
>
> * * *
>
> The fact that the printed matter *by itself* is not patentable subject matter, because non-statutory, *is no reason for ignoring it when the claim is directed to a combination.* Here there is a new and unobvious functional relationship between the measuring *receptacle*, volumetric *indicia* thereon indicating volume in a certain ration to actual volume, and a *legend* indicating the ratio, and in our judgment the appealed claims properly define this relationship.

Id. at 48 and 49 (emphasis in original).

Similarly, in the present case, Applicant's claims recite certain indicia that patentably define Applicant's invention over *Mayfield*, as explained above. The Examiner has erroneously chosen to ignore these claim recitations. Therefore, Applicant respectfully suggests that the Examiner's rejection is improper and must be overturned.

Additionally, the Examiner argues that "[w]hile *Mayfield* does not explicitly disclose the particular arrangement and/or content of the indicia as claimed, it would have been obvious to provide *any type of indicia on the label* as desired by the end user depending on the intended use of the device. July 2, 2002 Office Action, p. 6. Thus, under the Examiner's standard, after *Mayfield*, it is impossible to patent any type of label for a medicine container based on the printed matter on the label. For example, under the Examiner's rationale, bar code information on a label would not be a basis for patentability, even if the bar code information was itself novel and non-obvious. This is not the standard for patentability. Applying the correct standard, Applicant respectfully suggests that the Examiner's rejection is unsound and must be overturned.

CONCLUSION

Applicant respectfully requests that the Board overturn the Examiner's rejections and that the claims be allowed. If any fees are inadvertently omitted or if any additional fees are required or have been overpaid, please appropriately charge or credit those fees to Conley Rose, P.C. Deposit Account Number 03-2769.

Respectfully submitted,

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ATTORNEY FOR APPLICANT

01-27-03

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PTO/SB/021 (08-00)
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U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
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TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Total Number of Pages in This Submission	22

Application Number	09/853,568
Filing Date	08/03/01
First Named Inventor	Catherine Shoemaker
Group Art Unit	3722
Examiner Name	M. Carter
Attorney Docket Number	1960-00100

ENCLOSURES *(check all that apply)*

- ☒ Fee Transmittal Form
  - ☐ Fee Attached
- ☐ Amendment/Reply
  - ☐ After Final
  - ☐ Affidavits/declaration(s)
- ☐ Extension of Time Request
- ☐ Express Abandonment Request
- ☐ Information Disclosure Statement
- ☐ Certified Copy of Priority Document(s)
- ☐ Response to Missing Parts/ Incomplete Application
  - ☐ Response to Missing Parts under 37 CFR 1.52 or 1.53
- ☐ Assignment *(for an application)*
- ☐ Drawing(s)
- ☐ Licensing-related Papers
- ☐ Petition
- ☐ Petition to Convert to a Provisional Application
- ☐ Power of Attorney, Revocation Change of Correspondence Address
- ☐ Terminal Disclaimer
- ☐ Request for Refund
- ☐ CD, Number of CD(s)
- ☐ After Allowance Communication to Group
- ☒ Appeal Communication to Board of Appeals and Interferences
- ☐ Appeal Communication to Group *(Appeal Notice, Brief, Reply Brief)*
- ☐ Proprietary Information
- ☐ Status Letter
- ☐ Other Enclosure(s) *(please identify below):*

1. Acknowledgement Postcard

Remarks

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Or Individual Name	Jonathan M. Pierce
Signature	
Date	January 24, 2003

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as Express Mail Label No. EV 169612209 US in an envelope addressed to: Commissioner for Patents, Attn: APPEAL BRIEF, Washington, D.C. 20231 on this date: January 24, 2003.

Typed or Printed Name	Linda Baker		
Signature	Linda Baker	Date	January 24 , 2003

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PTO/SB/017 (01-03)
Approved for use through 01/31/2003. OMB 0651-0032
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

FEE TRANSMITTAL For FY 2003

Patent fees are subject to annual revision.

☒ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT | **$ 160.00**

Complete if Known	
Application Number	09/853,568
Filing Date	08/03/01
First Named Inventor	Catherine Shoemaker
Examiner Name	M. Carter
Group Art Unit	3722
Attorney Docket No.	1960-00100

METHOD OF PAYMENT *(Check all that apply)*

☐ Check ☐ Credit Card ☐ Money Order ☐ Other ☐ None

☒ Deposit Account:
Deposit Account Number: 03-2769
Deposit Account Name: Conley Rose, P.C.

The Commissioner is hereby authorized to: (check all that apply)
☒ Charge fee(s) indicated below
☒ Charge any additional fee(s) during the pendency of this application
☐ Charge fee(s) indicated below, **except for the filing fee** to the above-identified deposit account

FEE CALCULATION

1. BASIC FILING FEE

Large Entity Fee Code	Large Entity Fee ($)	Small Entity Fee Code	Small Entity Fee ($)	Fee Description	Fee Paid
1001	750	2001	375	Utility filing Fee	$
1002	330	2002	165	Design filing fee	$
1003	520	2003	260	Plant filing fee	$
1004	750	2004	375	Reissue filing fee	$
1005	160	2005	80	Provisional filing fee	$

SUBTOTAL (1) $

2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

		Extra Claims			Fee from below	Fee Paid
Total Claims	*	- 20** =	*	x	18.00	= $
Independent Claims	*	3** =	*	x	84.00	= $
Multiple Dependent					280.00	= $ 00.00

Large Entity Fee Code	Large Entity Fee ($)	Small Entity Fee Code	Small Entity Fee ($)	Fee Description
1202	18	2202	9	Claims in excess of 20
1201	84	2201	42	Independent Claims in excess of 3
1203	280	2203	140	Multiple dependent claim, if not paid
1204	84	2204	42	** Reissue independent claims over original patent
1205	18	2205	9	** Reissue claims in excess of 20 and over original patent

SUBTOTAL (2) $

***** or number previously paid, if greater; For Reissues, see above***

FEE CALCULATION (continued)

3. ADDITIONAL FEES

Large Entity Fee Code	Large Entity Fee ($)	Small Entity Fee Code	Small Entity Fee ($)	Fee Description	Fee Paid
1051	130	2051	65	Surcharge - late filing fee or oath	$
1052	50	2052	25	Surcharge - late provisional filing fee or cover sheet	$
1053	130	1053	130	Non-English specification	$
1812	2,520	1812	2,520	For filing a request for *ex parte* reexamination	$
18042	920*	1804	920*	Requesting publication of SIR prior to Examiner action	$
1805	1,840*	1805	1,840*	Requesting publication of SIR after Examiner action	$
1251	110	2251	55	Extension for reply within first month	$
1252	410	2252	205	Extension for reply within second month	$
1253	930	2253	465	Extension for reply within third month	$
1254	1,450	2254	725	Extension for reply within fourth month	$
1255	1,970	2255	985	Extension for reply within fifth month	$
1401	320	2401	160	Notice of Appeal	$
1402	320	2402	160	Filing a brief in support of an appeal	$160.00
1403	280	2403	140	Request for oral hearing	$
1451	1,510	1452	1,510	Petition to institute a public use proceeding	$
1452	110	2452	55	Petition to revive - unavoidable	$
1453	1,300	2453	650	Petition to revive - unintentional	$
1501	1,300	2501	650	Utility issue fee (or reissue)	$
1502	470	2502	235	Design issue fee	$
1503	630	2503	315	Plant issue fee	$
1460	130	1460	130	Petitions to the Commissioner	$
1807	50	1806	50	Processing fee under 37 CFR 1.17(g)	$
123	50	123	50	Petitions related to provisional applications	$
1806	180	1806	180	Submission of Information Disclosure Stmt	$
8021	40	8021	40	Recording each patent assignment per property (times number of properties)	$
1809	750	2809	375	Filing a submission after final rejection (37 CFR § 1.129(a))	$
1810	750	2810	375	For each additional invention to be examined (37 CFR § 1.129(b))	$
1801	750	2801	375	Request for Continued Examination (RCE)	$
1802	900	1802	900	Request for expedited examination of a design application	$
Other fee (specify)					$

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Complete *(if applicable)*

Name *(Print/Type)*	Jonathan M. Pierce	Registration No. *(Attorney/Agent)*	42,073	Telephone	(713) 238-8000
Signature				Date	January 24, 2003

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